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SUBJECT: LIBERIA: INITIAL TIMBER CONTRACTS MARK MILESTONE BUT RAISE CONCERNS

REF: 2007 MONROVIA 1090

1. (SBU) SUMMARY: Liberia has marked another step towards the resumption of legal commercial logging by awarding new timber concessions for the first time since United Nations timber sanctions were imposed in 2003. The Forestry Development Authority (FDA) held a bid opening ceremony February 29 to kick off the evaluation and award process for six timber sale contracts (TSC). Although these initial six contracts are expected to yield only \$850,000 in licensing fees over three years, and logging is not expected to commence until October of this year, the provisional awards re-open a vital revenue stream to the Government of Liberia (GOL). This first exercise of the FDA's new contract allocation regulation was not without flaws, but is a step in the right direction. A rush to award concessions for larger Forest Management Contracts (FMCs) before resolving outstanding issues related to the bid evaluation process are a cause for concern. Civil Society has also objected to any award of FMCs prior to agreement on a Community Rights and Access Law. END SUMMARY.

2. (SBU) The UN sanctions on Liberian timber were lifted in 2006. The FDA, with the help of the United States Forest Service (USFS), has worked for the last three years to reestablish a legal and operational framework for commercial logging. Under the new law and supporting regulations, companies must be pre-qualified in order to bid on timber contracts. Contracts are awarded based on the highest bid premium - the amount the bidder is willing to pay in excess of the annual land rental fee of 1.25 USD per hectare. An undisclosed minimum bid is established, by regulation, to ensure the GOL maximizes public revenues. In the past the GOL did not employ competitive bidding procedures and therefore did not receive fair bid premiums for logging contracts.

3. (SBU) Despite pressure from the government and industry to restart logging, only six companies were pre-qualified to bid on the first set of contracts and only three chose to bid. Two of the TSCs were awarded at the minimum bid level while the other four were awarded at a small bid premium over the minimum bid requirement. The bids, if finally approved following due diligence, will provide \$850,000 in licensing fees to the GOL (via the FDA) over the next three years.

4. (SBU) The pre-qualification and bid evaluation process was not entirely smooth. Two bidders filed identical business statements and seem to have received financing from the same source, indicating possible fraud or collusion. Also, some large companies with tax arrears were given clearance in violation of FDA regulation. Although a Ministry of Finance source tells us all tax arrears had been paid, an FDA source assured us that was not the case, thereby injecting a measure of doubt as to the transparency and fairness of the process. After the bidding, FDA due diligence revealed that none of the three provisional contract winners had the financial or staff capability to perform the contracts. The FDA has given the three firms 30 days to demonstrate financial ability but it is unclear what will happen if the firms are unable to meet that deadline.

5. (SBU) The FDA announced that the next round of pre-qualification of companies has begun and the FDA published tenders for three long-term Forest Management Contracts (FMC) the week of March 10. Unlike TSCs which are for limited duration (three years) and small acreage (less than 5,000 hectares), FMCs are for larger forest areas (50,000-400,000 hectares) and longer term duration (up to 25 years). Bids for these initial FMCs are due April 18. The FDA is also preparing tenders for possibly four additional FMCs in the coming months.

6. (U) Civil Society groups have registered intense objection to the award of FMCs prior to an agreement on a Community Rights and Access Law that would establish community tenure rights for forest lands. Global Witness and other international NGOs stated March 27 that "resumption of large-scale logging before this law is implemented will undermine the efforts of rural communities to develop and prosper." The law was originally scheduled for completion in 2007 but continued disagreement among stakeholders makes it unlikely the law will be concluded before the end of 2008. Civil Society determination to defer FMCs until a law is implemented is at odds with GOL's desire to stimulate employment and capture revenues from the timber sector as soon as possible.

7. (U) Meanwhile, Swiss-based SGS Group is finalizing the Standard Operating Procedures for the implementation of its five-year Chain of Custody contract to track timber exports and ensure traceability. During an explanatory workshop for forestry officials and industry

representatives March 20, SGS outlined the steps logging companies must take after they are awarded a TMC or FMC before they can initiate logging. The new Forestry Law regulations and Chain of

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Custody procedures require companies to inventory concession areas and provide block maps and other documentary reporting to SGS before the FDA will issue an authorization to commence logging operations. Given these requirements, it is unlikely logging will commence on these initial TSCs before October 2008.

18. (SBU) COMMENT: With the Forestry Reform Law, associated regulations and the new Chain of Custody procedures, the FDA has created the foundation for a transparent, accountable system for allocating concessions in a way that maximizes government revenue and ensures responsible forest management. Despite initialstumbles, the process represents a dramatic improvement over how timber contracts were awarded in the past. The tender was offered openly and competitively with an adequate minimum bid in place to ensure potential collusion did not result in inadequately-priced contracts. A solid due diligence effort at this stage is vital to ensure the integrity of these initial awards and to provide lessons learned that inform and improve the next wave of more sensitive FMC concessions.

19. (SBU) COMMENT, CONT.: Symbolic success notwithstanding, the dearth of qualified TSC bidders and the homogeneity of bids are disappointing, and the FDA's rush to award FMCs before some obvious procedural flaws - and lingering community access issues - are addressed is a cause for concern. While the FDA faces intense pressure to issue timber contracts as fast as possible, it must also ensure that the award and evaluation of those contracts are in accordance with forestry and procurement regulations, thereby reinforcing the foundation the FDA worked so hard to build. END COMMENT.

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